



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO
80204-2581

APR 10 2003

Reply to
Attn of:

SFSP-478
SP 03-15

Subject:

Revised Seamless Summer Feeding Waiver Materials

To:

STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas, Missouri ED,
(Special Nutrition Programs) Missouri DH, Montana OPI, Montana DPHHS,
Nebraska, North Dakota, South Dakota, Utah,
and Wyoming

Attached for your use are revised editions of the Fiscal Year (FY) 2003 seamless waiver prototype request and the Question and Answer memorandum on seamless waiver issues. In addition, we are rescinding previous guidance provided for the waiver prototype and Question and Answer memorandums transmitted under SFSP-468/SP 03-07 and SFSP-472/SP 03-09 respectively.

These materials have been revised to reflect the change in reporting requirements for State Agencies/School Food Authorities on seamless waivers to FNS for FY 2003, as discussed in our SFSP-475/SP 03-12 memorandum on that subject. Also, in the revised Question and Answer memorandum, we have addressed an additional issue on closed enrolled sites that has arisen since our first issuance of this guidance. Please note that only the most recent revisions are highlighted in both documents.

If you have any questions, please contact my staff at 303-844-0359

Darlene Sanchez

DARLENE SANCHEZ
Regional Director
Special Nutrition Programs

Attachments

Prototype:
Seamless Summer Feeding Waiver Request
FY 2003, Revision 1

Part A: Identify School Food Authority (SFA); describe waiver request and special provisions

1. Information about the SFA requesting the waiver

Name, address, and phone number of responsible SFA official requesting the waiver.

List all child nutrition programs operated by the SFA (optional)

Indicate why the SFA wants to operate the Seamless Summer Feeding Waiver (optional)

2. Describe the waiver request

_____ (The SFA) seeks approval under the waiver provisions found in section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 12(l)) to operate a Seamless Summer Feeding Waiver in specific locations within its jurisdiction, referred to as *waiver sites*.

The waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP). The purpose of this waiver is to feed children in low-income areas during the summer months (or during extended breaks of a year-round school schedule). This waiver reduces paperwork and administrative burden that is normally associated with operating all three programs. To accomplish this, _____ (the SFA) requests a waiver of significant portions of the SFSP Federal regulations at 7 CFR Part 225. Specific provisions to be waived are identified in Part B. In lieu of SFSP regulations that are waived, _____ (the SFA) will follow corresponding requirements, where applicable, in the NSLP and SBP regulations at 7 CFR Parts 210 and 220, respectively.

Location and description of waiver sites

Waiver sites will include:

- 1.
- 2.
- 3.
- etc.

(List all sites, where seamless waiver meals will be served. At a minimum, include the following information for each waiver site:

- Name and address of site
- Indicate if the site operates on a year-round school calendar
- Percent of Free/Reduced price eligibility for school meals

Unless otherwise noted, all information must be included in SFA waiver request.

Revised: 4/10/2003. Only recent revisions are highlighted; deletions are marked with strikethrough lines.

- Type of site (i.e., open, restricted open, closed enrolled, migrant, or camp)
- Organization to operate the site under the SFA sponsorship
- How meals will be advertised to the community (n/a for enrolled sites or camps)
- Additional information for closed enrolled sites and camps (see item 3b)
- Other information as required by the State agency*

* For example, the State agency may require information about the planned meal service including -- estimated number of meals to be served, beginning and ending dates of meal service, days during week that meals will be served, and types of meals to be served.)

3. Special Provisions of the Seamless Summer Feeding Waiver

_____ (The SFA) agrees to adhere to the special provisions of the Seamless Summer Feeding Waiver, which are described in the following paragraphs numbered 3(a) – 3(i).

3(a) General Program Administration and Sponsor Responsibilities

As required in §225.14(c)(1) of the SFSP regulations, the SFA demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites.

3(b) Site Eligibility

Generally, the SFA will follow SFSP policy (established in the body of regulations, instructions, handbooks, and other written guidance) to choose waiver sites.

To the greatest extent possible, waiver sites will be located in eligible areas, that is, where 50 percent or more of the children qualify for free or reduced price school meals. These sites will be open to the community located in the eligible area, except that in some cases, participation may later be limited for reasons of safety, security, or control.

Closed enrolled sites or camps may operate under the waiver, under the following conditions:

For each closed enrolled site, in addition to providing the name and address, the SFA must explain:

- Whether the sites are located in eligible areas,
- How it determined that at least 50 percent of the enrolled group of children in a non-eligible area qualify for free/reduced price school meals, and
- Why it is sponsoring closed sites.

For each camp to be operated under the seamless waiver, in addition to providing the name and address, the SFA must provide the following information:

- Whether the camp is residential or non-residential
- Whether it is located in an eligible area
- Why it is sponsoring the camp and
- Provide a statement certifying that only the meals served to children determined to be eligible for free/reduced price meals will be claimed for reimbursement.

Consistent with SFSP policy, schools that operate academic summer school sessions at waiver sites must be open for meals to all children in the area eligible community. Otherwise, schools will not be eligible to participate in the Seamless Summer Feeding Waiver, and meals at such schools will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

Consistent with SFSP policy, year-round schools may operate waiver sites for off-track students, provided that the sites are open to all children in the area eligible community. Meals for on-track students will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

The SFA will not claim any meals under the seamless waiver at any site without receiving prior approval from the State agency.

3(c) Participant Eligibility

All persons meeting the definition of *Children* in the SFSP Federal regulations at §225.2 are eligible to participate. This includes all persons in the community who are 18 years of age and under and (as defined at §225.2) those persons over age 18 who meet the State agency definition of mentally or physically disabled persons.

3(d) Meal Service

The SFA will follow NSLP meal service requirements for lunch or snacks (§210.10) and SBP meal service requirements (§220.8) for breakfast. With State agency approval, the SFA may serve a supper meal, using applicable NSLP meal service requirements for lunches.

Consistent with NSLP and SBP regulations and instructions, the following provisions will apply to meal service at waiver sites:

- Second meals are not reimbursable and may not be claimed
- Production and menu records will be maintained that show compliance with meal requirements
- The designated lunch period will be between the hours of 10 a.m. and 2 p.m., unless otherwise exempted by the State agency (~~such as supper service that would not occur during these hours~~)
- The SFA may allow offer versus serve meals at waiver sites

- Off-site consumption of meals will not be allowed, except as part of a scheduled event such as a planned field trip.

3(e) Number and Types of Reimbursable Meals

The number and types of meals will comply with the SFSP requirements at §225.16(b), as described below:

- All sites except camps or migrant sites: With State agency approval, the SFA may serve up to two meals at all sites, except for camps or migrant sites. Meal service may include breakfast, lunch, snack, or supper. The SFA may not claim both lunch and supper meals at the same site on the same day.
- Camps and migrant sites: With State agency approval, the SFA may serve up to three meals or two meals and a snack per day.

3(f) No charge for meals served to eligible participants.

Meals at all approved waiver sites, except camps, will be served free to all children in accordance with §225.6(e)(4) of the SFSP regulations. However, sponsors of camps may charge for the meals served to children who are ineligible to receive free or reduced price school meals; sponsors may claim reimbursement at the free rate only for children who are eligible for free or reduced price rates for school meals.

3(g) Claims and Reimbursements

The SFA may claim meals at the "free" rates prescribed by USDA for the NSLP (including snacks) and the SBP. Supper meals, if permitted by the State agency, may be claimed at the free rate for NSLP lunches. All lunches and suppers served under this waiver will receive the standard commodity support rate available for the NSLP. Waiver sites that qualify for the severe need breakfast rate will continue to receive this differential.

~~On the monthly claim filed with the State agency, the SFA must identify meals served at waiver sites separately from other NSLP or SBP meals served at other sites.~~

3(h) Monitoring

The SFA will review the meal counting, claiming, and meal pattern compliance within the three (3) weeks of starting operations for all sites that are newly approved in FY 2003 to operate the Seamless Summer Feeding Waiver or that are operated by non-SFA personnel. At the State agency's option, waiver sites that were reviewed in FY 2001 and 2002, where no significant operational deficiencies were detected, do not have to be reviewed by the SFA for FY 2003.

Edit checks, as outlined in §210.8 will not be required for food service operations conducted under the waiver.

3(i) Additional Reporting/Reviews/Evaluation

The State agency will include waiver sites operated under this waiver in the management review requirements described at 210.18 of the NSLP regulations. If a CRE is conducted of the SFA, at least one waiver site will be visited while it is in operation.

FNS reserves the right to conduct an evaluation of these waiver sites. The evaluation may include periodic special reviews. The SFA agrees to cooperate as necessary, including making all applicable records and operations available for review.

FNS may request additional information for evaluation purposes. In the event that additional information on waiver site operations is required, FNS will allow sufficient time for the State agency and the SFA to comply with the request.

Part B: Specific Regulatory Requirements to be Waived

1. Exempted SFSP Regulations

To operate the Seamless Summer Feeding Waiver, the SFA requests a waiver from the following regulatory provisions in 7 CFR Part 225:

7 CFR 225.6, State agency responsibilities, paragraphs (b), (c), (e), (f), (h)

Except paragraphs (e)(4) and (e)(7);

7 CFR 225.7, Program monitoring and assistance, entire section;

7 CFR 225.8, Records and reports, entire section;

7 CFR 225.9, Program assistance to sponsors, entire section;

7 CFR 225.10, Audits and management evaluations, entire section;

7 CFR 225.11, Corrective action procedures, entire section;

7 CFR 225.12, Claims against sponsors, entire section;

7 CFR 225.13, Appeal procedure, entire section;

7 CFR 225.14, Requirements for sponsor participation, entire section

Except paragraphs (c)(1), (c)(2), (c)(3), and (d)(2);

7 CFR 225.15, Management responsibilities of sponsor, entire section

7 CFR 225.16, Meal service requirement, entire section

Except paragraph (b);

7 CFR 225.17, Procurement standards, entire section;

7 CFR 225.18, Miscellaneous administrative provision, entire section.

2. Non-exempted SFSP provisions

The SFSP Federal regulatory provisions, as identified in item 1 above, which remain in force include:

§225.6(e)(4) Section 225.6 covers State agency responsibilities. Paragraph (e) covers the State-Sponsor Agreement. Paragraph (e)(4) requires that the sponsor agree to serve meals at no cost.

Unless otherwise noted, all information must be included in SFA waiver request.

Revised 04/04/03. Only recent revisions are highlighted; deletions are marked with strikethrough line.

§225.6(e)(7) Paragraph (e)(7) requires the sponsor to agree to claim reimbursement only for the types of meals agreed upon with the State agency and served without charge to children at approved sites during the approved meal service period. This paragraph also prohibits permanent changes to the serving time of any meal unless approved by the State agency.

§225.14(c)(1) Paragraph (c)(1) requires that sponsors demonstrate financial and administrative capability to operate the program and requires sponsors to accept final financial and administrative responsibility for the total program operations at all sites.

§225.14(c)(2) Paragraph (c)(2) requires that sponsors must not have been declared seriously deficient in operating the program.

§225.14(c)(3) Paragraph (c)(3) requires that sponsors will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (except for camps).

§225.14(d)(2) Paragraph (d)(2) requires that meals served in schools must be open to children in the community as well as children enrolled in summer school.

§225.16(b) Section 225.16 covers the meal service requirements, and establishes limits on the number of meals that may be served.

3. NSLP and SBP Regulations

Although the Federal regulations governing the NSLP and the SBP are not exempted under this waiver, some provisions may be difficult to follow for waiver sites. Therefore, FNS will provide technical assistance as necessary to the State agency and the SFA in adapting requirements.

Seamless Summer Feeding Waiver: Questions and Answers For State Agencies and School Districts

FY 2003 Edition, Revision 1

General

- 1. Q** **What is the “seamless waiver?”**
A The seamless waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP). The purpose of this waiver is to make it easier for School Food Authorities (SFAs) to feed children in low-income areas during the summer months (or during the extended breaks of a year-round school schedule) under the NSLP. By replacing most of the SFSP rules, the waiver reduces paperwork and administrative burden that is normally associated with operating all three programs. Thus, FNS hopes that the waiver will encourage more SFAs to provide meals in the summer and other times when school is not in session.
- 2. Q** **What organizations may participate in the seamless waiver?**
A Only SFAs may participate in the seamless waiver as sponsors. However, with State agency approval, other organizations may operate waiver sites under SFA sponsorships.
- 3. Q** **Are there any special provisions for the seamless waiver?**
A Yes. FNS has distributed a Seamless Waiver Prototype, revised for FY 2003, which contains the special provisions that the waiver must operate under. Any SFA interested in applying for the waiver should review this document or the State version of this waiver application format for detailed information about the waiver.

State Agency Approval of Waiver Applications

- 4. Q** **What are the criteria for SFA participation in the waiver?**
A The State agency should carefully consider waiver applications from SFAs. SFAs should include all the information contained in the FNS-prototype, as well as any other information that the State agency has required the SFA to submit.

The SFA must be able to demonstrate administrative capability and financial viability to properly operate any child nutrition program. The State agency should not approve applications from SFAs that are considered to have problems operating either the NSLP or the SFSP, or is determined to be seriously deficient in the administration of the SFSP or the Child and Adult Care Food Program. Previous participation in the

04/04/03 Revision 1

Only recent revisions are highlighted (since 2/14/03); deletions are shown by strikethrough lines.

SFSP is not a requirement for participating in the Seamless Waiver.

5. **Q Can a State agency deny the waiver application if a school has had problematic CREs in the past or problematic SFSP reviews?**
A The State agency should not approve the application of any SFA that has demonstrated problems operating the NSLP, SFSP, or any other child nutrition program.
6. **Q How should additions or deletions of sites be handled under the waiver?**
A The State agency must approve any additional sites under the waiver. Any changes, including deletions, to the particular sites can be handled as an addendum to the initial approved waiver.
7. **Q Are State agencies required to provide training to SFAs approved to operate this waiver?**
A There is no mandatory training, but FNS encourages State agencies to provide training and technical assistance to SFAs based on their assessment of need for training.

Eligible Sites

8. **Q Can an SFA sponsor a site that is located outside of its attendance area?**
A Yes, with State agency approval.
9. **Q Can an SFA sponsor non-school sites operated by other organizations?**
A Yes.
10. **Q What sites are eligible for participation in the waiver?**
A Generally, the SFA should follow SFSP policy in selecting sites under the waiver. The following types of sites are allowed as waiver sites. Eligible sites are school or non-school facilities (buildings or outdoor locations) that are:
Open - located in eligible areas and open to all children through age 18 in the community, including sites in year-round schools;
Restricted open - located in eligible areas and initially open to all children through age 18 in the community but later restricted by the sponsor for security, safety, or control reasons, including sites in year-round schools;
Closed enrolled - located in eligible or non-eligible areas that are limited to a group of enrolled children through age 18, of which at least 50 percent must be eligible for free or reduced price school meals (academic summer schools are excluded); and
Migrant- primarily serving children through age 18 of migrant families, as

certified by a migrant organization.

Camps - residential and non-residential camps that offer regularly scheduled food service as part of an organized program for enrolled children. Only meals served to children through age 18 who are eligible for free or reduced price school meals (based on income eligibility applications) may be reimbursed.

11. Q May closed enrolled sites under the seamless waiver located in eligible areas (i.e., those areas where 50 percent or more of the children are eligible for free or reduced price school meals) take advantage of the new SFSP policy allowing closed enrolled sites to qualify for participation based on area data?

A Yes. Closed enrolled sites that are located in eligible areas may qualify for participation in either the SFSP or the seamless waiver using area data. This policy does not apply to residential or non-residential camps.

12. Q Can sites qualify for area eligibility for open, restricted open, or closed enrolled sites in eligible areas based on data other than the nearest school's percent of free or reduced price enrollment eligibility for school meals?

A Yes. The SFA may use census block group data. FNS must approve the use of data from other sources, such as departments of welfare and education and zoning commissions, prior to use. Generally, we prefer that the most current data be used whenever possible, which would be annual school data.

13. Q Once approved to operate the waiver, must site eligibility be redetermined each year?

A No. A new sponsor or a new site must use current data to establish eligibility for participation in the seamless waiver, as in the SFSP. Once in the waiver, as in the SFSP, a site may continue to qualify as an eligible open site using the same school data for two more years.

14. Q Will the fact that schools under Provisions 2 or 3 do not have current eligibility data affect a school's eligibility to participate under the waiver?

A No. We will accept data from a school site's base year to determine area eligibility. School sites must use the percent of eligible students, not the claiming percentages.

15. Q Can an SFA limit its sponsorship just to school sites?

A Yes. However, FNS encourages providing food service at as many sites in the community as possible. An SFA should match its sponsorship of sites with its financial and administrative capabilities. Where feasible, an SFA could enlarge its summer food service to children in the community by sponsoring non-school sites that are operated by other non-profit

organizations.

16. Q Can schools operating an academic summer school, whether private or public, participate in the waiver as closed enrolled sites?

A No. If the school site provides meals only to enrolled summer school students, it is not eligible to participate in the waiver. Section 225.14(d)(2) of the SFSP Regulations, which is not waived for seamless summer feeding sites, requires that meal services at academic summer school sites must be open to children in the community.

17. Q What are the criteria of approvable closed enrolled sites under the seamless summer feeding waiver?

A An approvable closed enrolled site could include any program for children, other than an academic summer school, provided that at least 50 percent of the enrolled children are eligible for free or reduced price school meals. Examples of closed enrolled sites include recreation programs and enrichment classes or programs. The SFA could sponsor and operate these sites or sponsor sites that are operated by local government, school, or private non-profit staff.

18. Q What are the requirements for site applications?

A The SFSP site application requirements, as described in §225.6(c)(2) and (3) are waived. In order to approve seamless waiver requests, SFAs must submit the following information for each site:

- 1 Name and address
- 2 Indicate if the site operates on a year-round school calendar
- 3 Free and reduced price data to support site eligibility
- 4 Type of site (open, restricted open, closed enrolled, migrant, or camp)
- 5 Organization to operate the site, if other than the SFA
- 6 How meals will be advertised to the community (N/A for closed enrolled sites or camps)
- 7 For closed enrolled sites: whether the sites are located in eligible areas, how it determined that at least 50 percent of the enrolled group of children in a non-eligible area qualify for free/reduced priced school meals, and why it is sponsoring enrolled sites.
- 8 For camps: whether the camp is residential or non-residential, whether it is located in an eligible area, a statement that only meals served to children who qualify for free/reduced price meals will be claimed for reimbursement, and why it is sponsoring camps.
- 9 Other information, as required by the State agency.

19. Q Can a year-round school with short off-track breaks (e.g., two weeks) participate in the waiver?

A Yes, as long as the school is on a year-round/continuous schedule and two-week breaks are part of the school schedule.

Meal Service

20. Q What are the types and number of meals that may be served and reimbursed under the waiver?

A The number and types of meals that may be served under the waiver are described in the SFSP regulations at §225.16(b). A maximum of two meals, such as lunch and breakfast, or lunch and a snack, may be served per day to children at all sites, except migrant sites and camps. At migrant sites and camps, a maximum of three meals may be served, such as breakfast, lunch, and a snack. Only migrant sites and camps may be reimbursed for lunch and supper served on the same day. For camps, both residential and non-residential, only the meals served to income eligible children (based on free/reduced price applications) will be reimbursed.

21. Q What meal pattern/menu planning system is to be used for a supper under the Seamless Waiver, the NSLP lunch or the SFSP supper/lunch?

A Any of the options available in the NSLP regulations.

22. Q Will a-la-carte sales be allowed at the same time that the seamless waiver meals are being served?

A Yes. The NSLP meal service rules are in effect. However, children should be encouraged to participate in the meal service being offered before they pay for a-la-carte items.

23. Q Can meals be served on weekends?

A Yes, with State agency approval. An SFA that plans to serve weekend meals should include this information in its waiver application.

24. Q Can a school participating under the waiver as an open site serve staggered meal times for community children and school children attending summer school?

A Yes, but it must be the same meals service (i.e., the same meal, same length of serving time, same eating area, etc.).

25. Q Must a school differentiate between meal counts for on-track (NSLP) and off-track (waiver) students in year-round sites?

A Yes. Since all off-track students at waiver sites receive free meals, the school must be able to distinguish between them and the on-track students that may be paying reduced rates or paid rates for their meals. ~~In addition, even though all waiver meals are claimed as free meals and are aggregated with all meals reimbursed at the free rate on the FNS-10 by State agencies, we are asking that State agencies also report seamless meals separately in the remarks section of the FNS-10. The separate reporting of waiver~~

~~meals is for evaluation purposes only. See Question 41 for details.~~

26. Q Are waiver sites required to get permission from the State agency prior to a field trip?

A Consistent with NSLP rules, they are not required to do so.

Local Level Monitoring

27. Q When must waiver sites be reviewed by the SFA?

A SFAs are required, as a condition of operating the waiver, to review within three (3) weeks of starting operation each site that is newly approved to operate the waiver or that is operated by non-SFA personnel. The SFA must review the site's meal counting, claiming, and meal pattern compliance. At the State agency's option, waiver sites that were reviewed in FY 2001 and 2002 and did not have any serious problems do not have to be reviewed by the SFA for FY 2003.

28. Q Do SFAs have to conduct edit checks, as required under §210.8 of the NSLP regulations, for waiver sites?

A No. Edit checks will not be required for the waiver sites during the period of time that the SFA is operating the sites under the seamless waiver rules. However, SFAs should ensure that meal counts match participation and that claims reflect the number of meals served. During non-waiver periods, the SFA must conduct edit checks outlined in §210.8.

State Level Monitoring

29. Q Are State agencies required to review waiver sites?

A Yes. State agencies must review at least one waiver site at all SFAs that are scheduled for CRE review during School Year (SY) 2003 or 2004. This may involve a second visit to the SFA to evaluate the seamless waiver site in operation.

At the State agency's convenience, the review of waiver sites may be conducted as follows:

<u>CRE review</u>	<u>Waiver site review</u>
SY 2002/2003	summer of 2003
SY 2003/2004	summer of 2003 or 2004

State agencies are not required to conduct annual reviews of SFAs operating under the seamless waiver or any special reviews for SFAs outside the normal CRE review schedule. However, State agencies are encouraged to review waiver sites even if a CRE is not scheduled for that SFA, especially if concerns arise about management of the waiver operations. SMI reviews are not required for waiver sites.

30. **Q** **Can a CRE be scheduled during the summer to avoid making the second visit to the seamless waiver site?**
A Only if the school is operating the NSLP on a year-round basis.
31. **Q** **Do findings from waiver sites, reviewed on a CRE, contribute to CRE thresholds?**
A No. Findings from a review of the seamless waiver site should not be incorporated into the CRE report or the annual FNS-640 report; a separate report on these findings can be issued to the SFA as an addendum to the CRE report.
32. **Q** **How should States review seamless waiver sites when conducted during a CRE?**
A States should determine the best method to evaluate the certification (in closed enrolled sites), meal count, and meal service procedures of the waiver site. Although it is not required, the State agency may choose to validate a claim of the seamless waiver site.

Program Access

33. **Q** **What can be done to ensure that SFAs operating an academic summer school make a concerted effort to attract children from the community who are not attending summer school?**
A Both in the approval process and in the review of sites, State agencies should ensure that schools approved as seamless sites make a reasonable effort to advertise the availability of free meals to children in the community who will not be attending summer school. As part of the waiver application process, SFAs must describe how each site will advertise the availability of meal services to children in the community. The SFA should provide enough detail in its waiver application so the method of advertising meal services to the public can be documented and confirmed later during a review by the State agency or FNS. For example, if the SFA stated that waiver site meals would be advertised in a publication, a copy of the advertisement should be available. Other examples would include documentation of public service announcements by radio or television stations, and copies of flyers provided to students or mailed to students' parents. If the school site is selected for review as part of a scheduled CRE, State agency reviewers should include the openness

of the site as a review element.

34. Q **If a school does not want to open its cafeteria to children in the community, can it serve its summer school children in the cafeteria and the other children outside somewhere, for example, in a park across the street or on the school playground?**
- A Regardless of the location of the site, whether in the cafeteria of the school or in the park across the street, the same facilities must be used to feed both groups of children. If the school does not want to open its meal service to children in the community who are not attending summer school, it is not eligible to participate in the waiver.
35. Q **Are State agencies/SFAs required to track meal service for hours, days, and weeks of operation?**
- A It is the State agency's option to require this information on the waiver application, and it would be the State's option, as well, to require the SFA to monitor the waiver sites for compliance with the waiver procedures approved by the State.

Rates

36. Q **Will qualifying schools continue to receive the severe need breakfast rates under waiver operations?**
- A Yes.
37. Q **Will schools participating as waiver sites continue to receive the commodity rates under NSLP?**
- A Yes. Schools will receive the full commodity allotment for both lunches and suppers.
38. Q **Will schools participating in the waiver still receive the extra \$.02 differential?**
- A Yes. However, for schools that did not already earn the extra \$.02 differential prior to coming onto the seamless waiver, the meals served under the seamless waiver cannot be used to help a school qualify for the extra funding.
39. Q **What rates will non-school sites receive?**
- A In most cases, the SFA will receive the same reimbursement rates for non-school sites as for the school sites. When different schools within the SFA's jurisdiction qualify for different rates, such as the severe need breakfast rate, then the non-school site will earn the same reimbursement rates as the nearest school. If the SFA is sponsoring a school that is outside its jurisdiction, the SFA will receive the same NSLP reimbursement rates that the school site earns during the regular school

year.

40. Q Since there is no supper rate in the NSLP, what will be the reimbursement rate for suppers under the waiver?

A The NSLP lunch rate, including commodity support rate and, if the SFA is qualified, the \$.02 severe need differential.

41. Q When may SFAs begin claiming seamless waiver rates (i.e., the free rates for all meals)?

A Once the regular school year is over or, in the case of year-round schools, during the breaks throughout the year for off-track students.

Reporting

42. Q How will participation under the waiver be reported?

A Participation will be counted as the number of free meals served monthly under the waiver. State agencies should report the number of meals served by type on the FNS-10 electronic report as follows:

- Include lunches and suppers served under the waiver in the meals reported on lines 5a (and on line 5b if applicable) of the FNS-10.
- Include snacks served under the waiver on line 5c only (do not include them in the subtotal for Area Eligible Snacks on line 5d).
- Include breakfasts served under the waiver on line 6 and on line 7, if applicable.

- ~~Report the number of meals served under the seamless waiver by meal type each month in the remarks section of the FNS-10 report (located at the bottom of the first screen). Since there is a very limited amount of space available in the remarks section, we suggest the following abbreviated format:~~

~~Waiver: LN (# of waiver lunches and suppers); BRK (# of waiver breakfasts, regular + severe need); SNK (# of waiver snacks)~~

43. Q On which FNS-10 reports should State agencies include waiver activity?

A Waiver activity should be reported on both the 30-day and 90-day reports for each month that waiver meals are served. For the 30-day, report the total of actual and estimated meals; for the 90-day, report actual meals only.

44. Q Since the new NSLP and SBP rates for the upcoming SY are effective for July, how would the claims for June and July be handled?

A State agencies should refer to the NSLP regulations, at 7 CFR 210.8(c)(1), for combining claims of months with Seamless Waiver activity. Since the NSLP rates change on July 1, the June and July claims cannot be combined. June meals served under the waiver would be included in the same claim as regular NSLP meals for June. If the SFA did not operate the regular NSLP in June but operated the waiver for 10 days or less, it could combine the June waiver meals on the May claim. Conversely, if it operates the waiver for 10 days or less during July, it could combine the July and August claims.

45. Q How will waiver site meals be reported on the SF-269 report?

A Since waiver meals are claimed under the NSLP and SBP on the FNS 10, financial activity related to these meals must also be reported under these programs on the SF-269. The waiver site meals will be reported on the SF-269 as follows:

- Report Status of Funds for lunches, suppers, and snacks in Column 14 - School Lunch;
- Report Status of Funds for breakfasts in Column 15 - School Breakfast.

46. Q Can a Food Service Management Company (FSMC) be responsible for administrative tasks such as monitoring/claims/reporting for SFAs participating in the seamless waiver?

A Yes. The regulatory provision that prohibits this in the SFSP (§226.15(a)(3)) is waived for the seamless waiver. As such, FSMC personnel would follow the applicable NSLP regulations at §210.16.

SFSP Issues

47. Q What provisions of the SFSP apply to SFAs participating in the waiver?

A The following provisions are not waived and require that SFAs must:

- 1 Agree to serve meals at no cost (§225.6(e)(4))
- 2 Agree to claim reimbursement only for the types of meals (breakfast, lunch, snack, or supper) agreed upon with the State agency, which are served at approved sites during approved meal service periods (§225.6(e)(7))
- 3 Demonstrate financial and administrative capability to operate the program and accept final financial and administrative responsibility for the total program operations at all sites (§225.14(c)(1))
- 4 Not be seriously deficient in operating the SFSP (§225.14(c)(2))

- 5 Conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (§225.14(c)(3))
- 6 For schools, operate sites that are open to children in the community (§225.14(d)(2))
- 7 For all sites except migrant sites or camps, serve up to two meals (combination may not include lunch and supper), or one meal and one snack, or two snacks per day (introductory paragraph (b) of §225.16).
- 8 Serve up to three reimbursable meals per day to children attending residential or non-residential camps, which are eligible for free or reduced price school meals, based on income eligibility applications. (§225.16(b)(1)).
- 9 Migrant sites may serve up to three meals or two meals and a snack per day (§225.16(b)(4)).

48. Q How does the seamless waiver affect the SFSP review schedule?

A As long as an SFA is participating in the seamless summer feeding waiver, it is not considered to be a sponsor under the SFSP. Therefore, the SFA should be taken out of the pool of SFSP sponsors to be reviewed by the SFSP State agency. This would include removing the SFA from the list of sponsors whose prior year reimbursements equal half of all reimbursements, as required in §225.7(d)(2)(ii)(B) of the SFSP regulations.

49. Q Can a State agency still use one percent of funds from the approved Management and Administration Plan (MAP) for health inspections of waiver sites (§225.5(f))?

A No. We do not have the legal authority to authorize the use of these funds for any purpose other than specified in section 13(k)(3) of the National School Lunch Act. These funds may only be used for health inspections and meal quality tests for SFSP sites. Waiver sites are not considered to be part of the SFSP, since reimbursement and most operating rules come from the NSLP.

50. Q Are schools participating in the waiver required to attend the annual SFSP training?

A No. SFSP training requirements are waived; SFAs and schools participating in the seamless summer feeding waiver are not considered to be participating as sponsors of the SFSP.